

# **EXHIBIT 2**

Mary Franklin

October 05, 2020

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

Case No. 1:18-CV-68

ORAL AND VIDEOTAPED DEPOSITION OF  
MARY FRANKLIN  
OCTOBER 5, 2020  
(Reported Remotely)

ORAL AND VIDEOTAPED DEPOSITION of MARY FRANKLIN, produced as a witness at the instance of the Defendant-Intervenors, and duly sworn, was taken remotely in the above-styled and numbered cause on the 5th day of October, 2020, between the hours of 11:40 a.m. and 2:12 p.m., before TRICIA FOX WILLIAMS, CSR, in and for the State of Texas, reported by machine shorthand, at 700 Main Street, Little Rock, Arkansas, in accordance with the Federal Rules of Civil Procedure, the State of Texas 26th Emergency Order Regarding the COVID-19 State of Disaster, and the provisions stated on the record or attached hereto.

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1 Q. Okay. And have you seen this document before  
2 today?

3 A. Yes.

4 Q. Okay. Now, do you understand that you've been  
5 designated to testify as Arkansas's representative with  
6 respect to the topics; one, and it has subtopics, two,  
7 three, four, five, six, seven, eight, and then also  
8 topics 10 through 17?

9 A. I understand that I have been designated  
10 beginning with No. 2.

11 Q. Okay, let's go back up. Okay. Are you  
12 prepared to answer questions today on topic one?

13 A. No, I am not, that expert is a contractor with  
14 DHS.

15 Q. Okay. Understood. So I will just ask you what  
16 you do know about the contractor with DHS and the  
17 functions, I'm just going to make a note. All right.  
18 Before we get to that, I'd like to know if there's any  
19 testimony that you gave me when I took your deposition  
20 last year that you would like to change today.

21 A. Not that I'm aware of at this moment, no.

22 Q. And so when you testified last year in your  
23 deposition, you gave me information that was accurate to  
24 the best of your knowledge; is that correct?

25 A. Yes.

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1 the "vague." Go ahead.

2 Q. (By Ms. Perales) Do you happen -- well, okay.

3 Ms. Franklin, do you know what this document is used for  
4 by Arkansas DHS?

5 A. The document is used -- the purpose of the  
6 document, I believe, is to document how a process works  
7 in the eligibility system, and it's updated if a change  
8 is made to it.

9 Q. Okay. Do you know if this document sets forth  
10 all of the information that is maintained in the  
11 Arkansas eligibility system about immigration status of  
12 beneficiaries?

13 MR. DISHER: Objection, vague.

14 A. I do not.

15 Q. (By Ms. Perales) Okay. Let's see, I'm going  
16 to go to a specific page, I just have to find it. I  
17 think it might actually help me to make this a little  
18 bit smaller so I can see what I'm doing here. Okay.  
19 I'm going to go to the page numbered Bates STATES 838.  
20 Okay. So here we have page 838, and on this page it  
21 talks about people who are exempt from the individual --  
22 individuals who are exempt from the Medicaid five year  
23 bar, and then it has a list of categories. Is this list  
24 something that you're familiar with?

25 A. Yes, there is a similar list in the Medicaid

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1 question. Do you happen to know what the eligibility  
2 system says about a person in terms of their eligibility  
3 if they have an I-797?

4 MR. DISHER: Objection, vague.

5 A. It depends on -- it depends on what that  
6 specific information is, and whether or not it's enough  
7 information to determine eligibility.

8 Q. (By Ms. Perales) Do you happen to know if  
9 someone has an I-797, whether the eligibility system  
10 records them as having deferred action?

11 MR. DISHER: Objection, vague.

12 A. Again, we're getting too deep in the details of  
13 exactly what comes back from the hub, and exactly how  
14 the eligibility system is updated.

15 Q. (By Ms. Perales) Okay. So are you able to  
16 testify about how the eligibility system interprets  
17 information that's coming back from the hub and makes an  
18 eligibility determination?

19 MR. DISHER: Objection, vague.

20 A. So this document -- I feel like this document  
21 details a lot of that process, and also the eligibility  
22 policy also drives those rules that are built into the  
23 eligibility system. But, again, for that specific  
24 document type, what happens next in the process, that's  
25 beyond my day-to-day expertise.

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1 Q. (By Ms. Perales) Okay. And with respect to  
2 all of these bullets on Bates 935, 936, would it be fair  
3 to say that you cannot testify how the eligibility  
4 system is taking this information that's coming from the  
5 hub and making eligibility determinations; is that  
6 right?

7 MR. DISHER: Objection, vague. Go ahead  
8 and answer.

9 Q. (By Ms. Perales) You may answer.

10 A. So, again, the eligibility system has been  
11 designed to follow the rules in the medical policy  
12 manual, and use the information from the hub based on  
13 the guidance about how the information is received and  
14 what different codes stand for, and then does whatever  
15 is next appropriate in the process.

16 Q. Understood. And would it be fair to say that  
17 you cannot provide additional detail about how that  
18 information from the hub is interpreted and applied  
19 within the eligibility system, other than what you've  
20 said?

21 A. Other than what I've said. Again, this would  
22 take detailed knowledge about exactly how the  
23 information is received, what it relates to in the  
24 policy manual, and what the system does next.

25 Q. Okay. And that -- you aren't able to give us

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1 that detailed information today; is that right?

2 A. That's right.

3 Q. Do you know if this document, which is Exhibit  
4 2, describes all of the immigration-related information  
5 that Arkansas would maintain about an individual  
6 beneficiary for Medicaid?

7 A. I don't know that this document would be the  
8 only document, we have a Medicaid eligibility policy  
9 manual as well.

10 Q. But in terms of what the eligibility system  
11 would maintain in terms of data about an individual, as  
12 opposed to policies, in terms of data about an  
13 individual, does this exhibit describe all of the  
14 immigration-related data that Arkansas would maintain  
15 about an individual beneficiary?

16 A. I'm not certain of that. Again, because I'm  
17 not familiar with the codes that the data service hub  
18 sends, and all the exact definitions of those codes. So  
19 I do not believe that just looking at this document  
20 would be enough information to make that determination  
21 from.

22 Q. Are you aware of the extent to which this  
23 document discusses DACA?

24 A. No.

25 Q. Okay. I'm not going to torment you anymore

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1 with this document. Unless you say something that makes  
2 me have to pull it back up again, I won't ask you about  
3 it. Okay. We're going to go back to a document that  
4 you and I discussed in your earlier deposition, let me  
5 drop and drag it into the chat. We're going to talk  
6 about this chart that you and I talked about before.  
7 It's very small, I'm going to make it a little bit  
8 bigger, but I don't know what size screen you're working  
9 on. So I don't know if it's easier for you to look --  
10 well, I can get the whole thing on my screen like this.  
11 Do you recognize -- and I'd like to mark this as Exhibit  
12 3. Do you recognize this chart as the chart that you  
13 and I reviewed in your deposition of last year?

14 (Exhibit 3 marked for identification.)

15 A. Yes.

16 Q. (By Ms. Perales) And this is the chart that's  
17 associated with your declaration in the case; is that  
18 correct?

19 A. Yes.

20 Q. Okay. I would like to talk with you a little  
21 bit more about how these individuals were selected for  
22 inclusion in this chart. And we talked in your last  
23 deposition about your request to some people to create  
24 this list for you, and they created it for you, and then  
25 we talked about it some more. I'd like to know if you

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1 know any more specifically about the information that  
2 the eligibility system maintains that would cause  
3 somebody to have been included on this list.

4 A. No, I don't know any additional information  
5 other than what went into the query for this report.

6 Q. Okay. And I know that you mentioned that you  
7 requested a report on people who were identified as DACA  
8 within your eligibility system, correct?

9 A. Yes.

10 Q. And do you have any details about how somebody  
11 is associated with DACA in your eligibility system, or  
12 how somebody is indicated as DACA within your  
13 eligibility system?

14 A. My understanding is there's a specific code in  
15 the information that comes from the Federal Data  
16 Services Hub that identifies an individual as a DACA  
17 individual, and then that information is put into the  
18 eligibility system.

19 Q. Do you know -- do you happen to know what the  
20 codes are that come from the hub that identifies someone  
21 as DACA?

22 A. Again, not specifically. I know there are  
23 codes, and I know that there -- my understanding is  
24 there is a specific code for DACA.

25 Q. Okay. Now I want to talk with you for a minute

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1 Q. But are you aware of the communication between  
2 Arkansas DHS and eSystems, in which Arkansas DHS asks  
3 eSystems to take that information and put it into the  
4 eligibility framework so that somebody can come and look  
5 it up on an individual case participant's records?

6 MR. DISHER: Objection, lack of  
7 foundation.

8 A. So I am not aware, beyond the design documents,  
9 if there are additional details not included in the  
10 design documents that identify specific codes and what  
11 those codes mean. I am not aware beyond the design  
12 documents, so I don't know how to give you more  
13 information than that.

14 Q. (By Ms. Perales) No, that's a perfectly good  
15 answer. Are you aware of any design documents that  
16 mention DACA?

17 MR. DISHER: Objection, vague. Go ahead.

18 A. I -- no. I mean, I don't know anything beyond  
19 what's been provided already.

20 Q. (By Ms. Perales) Okay. Let me pull up the  
21 other chart. Let me see if I have any other questions  
22 about this. Actually, I do. I just want to stay on  
23 here for another second. Did you generate this Exhibit  
24 A yourself?

25 A. No.

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1 what I requested.

2 Q. Okay. Do you have any understanding of the  
3 relationship of people who are coded DACA in your  
4 eligibility system, and the people described as deferred  
5 action status in this eSystems Eligibility and  
6 Enrollment Framework document?

7 A. Would you restate the question?

8 Q. Sure.

9 MS. PERALES: I'd like to have the court  
10 reporter read it back, if you could, so it's the same  
11 question.

12 (Requested portion read back.)

13 A. I feel like I would need to read this framework  
14 document to fully answer that question.

15 Q. (By Ms. Perales) Okay. And if you assume with  
16 me that the eligibility framework document for Arkansas  
17 does not include the term "DACA," or "deferred action  
18 for childhood arrivals," do you have an understanding of  
19 the relationship between people described as deferred  
20 action status in the eligibility and enrollment  
21 framework document, and those people who are coded as  
22 DACA in your eligibility system?

23 A. So I see in the document, on this page that you  
24 have highlighted, deferred action status is an exemption  
25 to the specific five year ban. That document's

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1 relationship to this report -- there's more into pulling  
2 a report than looking -- this document is about the  
3 eligibility system, but again, I do not see in that  
4 document, or the page that you had highlighted, the  
5 specific codes that come back from the Federal Data  
6 Services Hub, that then the eligibility system puts  
7 information specific to those codes onto -- into the  
8 eligibility system.

9 Q. I have the same questions, Ms. Franklin. If  
10 the document that I've been provided by Arkansas, which  
11 is the Eligibility and Enrollment Framework Project  
12 document, does not mention deferred action for childhood  
13 arrivals, or DACA, I don't have an understanding of the  
14 relationship between your project, and how it captures  
15 information from the hub, and these people who appear in  
16 your eligibility system as being associated with DACA.  
17 And because of that, I'm asking if you have that  
18 information.

19 A. As I mentioned earlier, I am not the expert in  
20 exactly how the system works, and how it takes files  
21 from one location and assimilates them and uses them in  
22 the eligibility system. I mentioned earlier that the  
23 expert is a contractor, eSystems.

24 Q. Okay.

25 A. And you're asking questions that are too deep

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1 into the details for me to have specific knowledge  
2 about.

3 Q. Okay. Thank you. So let's just look at the --  
4 let's just look at Exhibit 3, Total Dollar Amount Paid  
5 for Members in the List for Specific Dates of Coverage,  
6 that's the title of the document. Can you tell me how  
7 much of the total paid amount was paid by Arkansas as  
8 opposed to the federal government?

9 A. You cannot see that from this document. This  
10 document has total paid amount, and is not split by  
11 federal and state.

12 Q. Okay. And sitting here today, can you tell me  
13 how much of this amount was paid by the federal  
14 government and how much --

15 A. Not from this specific document.

16 Q. No, not from this document, but sitting here  
17 today, can you tell me how much of the \$911,418.88 was  
18 paid by Arkansas, and how much was paid by the federal  
19 government?

20 A. I cannot give you a specific amount. I can  
21 tell you it depends on whether or not it was a Medicaid  
22 claim or a CHIP claim, when the claim occurred, and what  
23 the match rate was when that happened. But, again, I  
24 can't give -- tell you that from this document.

25 Q. Okay. Is it also correct to say that the

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1 document that we're looking at here, Exhibit 3, does not  
2 provide the date of service?

3 A. Scroll back to the top and let me make sure. I  
4 do not think it does, but let me make sure. No, these  
5 are just dates of coverage, these are not specific dates  
6 of claims.

7 Q. And is it also correct to say that this  
8 document does not include the date on which the hub  
9 returned information that Arkansas has used to conclude  
10 the person is a DACA recipient?

11 A. That is correct.

12 Q. I have a couple of very small questions about  
13 the document. And if you were there in the deposition  
14 of Ms. Mann, I asked her what is a Parent or Caretaker  
15 Relative, and she said she didn't know, but I kind of  
16 figured you might know.

17 A. A Parent or Caretaker Relative is a Medicaid  
18 eligibility category, and, again, it is Medicaid,  
19 everyone in that category is a Medicaid recipient. And  
20 it is for parents who have a dependent child under the  
21 age of 18, and who also meet -- they have low income for  
22 people who meet the criteria for that category.

23 Q. Okay. And that also sounds a little bit like  
24 the category Arkansas Works, which my understanding is  
25 covers adults age 19 to 64; is that right?

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1 from the five year bar, does that mean that when they  
2 apply for Medicaid, that Arkansas would then deem them  
3 ineligible?

4 MR. DISHER: Objection, vague.

5 A. No, because -- no. This is just one section of  
6 the manual. They may qualify in the Unborn Child  
7 category, if you see B 250, Unborn Child category, where  
8 it says, "Lawfully admitted aliens who do not meet the  
9 five year residency requirement or undocumented aliens."  
10 So individuals who have status of DACA can be covered in  
11 Unborn Child, and they can also be covered in emergency  
12 Medicaid, if they meet the emergency Medicaid criteria,  
13 and that could be in multiple different Medicaid  
14 categories. But as a general rule, no, they're not  
15 eligible for Medicaid, they're eligible in limited  
16 circumstances.

17 Q. (By Ms. Perales) Okay. I'm going to shrink  
18 these documents back down. Okay, we're back to this  
19 table again. So with respect to each individual who's  
20 listed in Exhibit 3, can you tell me information about  
21 these individuals as they are listed on this  
22 spreadsheet? So, for example, for the person who's on  
23 the top line of this spreadsheet, category code 06,  
24 description Arkansas Works, we have some dates of  
25 coverage, and then we have an amount, \$3,186.69. Are

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1 you able to tell me for this person whether they were a  
2 DACA recipient on the date of the reimbursed service?

3 A. No.

4 Q. Okay. And is that answer the same for every  
5 person on this spreadsheet?

6 A. So -- yes.

7 Q. Okay.

8 A. This spreadsheet does not have the date that  
9 the person was determined to be a DACA recipient.

10 Q. Okay. And then in terms of the program  
11 category under which the service was reimbursed, for the  
12 individuals on this spreadsheet, I understand that  
13 you're not able to tell me for that specific individual,  
14 for example, whether the service might have been  
15 reimbursed under CHIP or Medicaid for some of these  
16 folks; is that right?

17 A. For some, but not all.

18 Q. Okay. I'm just -- I'm going through the topics  
19 on the Schedule A. And so topic six does say, "For each  
20 DACA recipient who received services reimbursed by  
21 Arkansas DHS," and then it asks a series of questions.  
22 Are you able to testify today -- putting aside this  
23 chart. Are you able to testify today about individual  
24 DACA recipients who received services from Arkansas DHS,  
25 and answer some questions about them?

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1 A. Do you mean in general, or specific to  
2 particular individuals?

3 Q. Specific to particular individuals.

4           A.     No, I cannot speak specific to particular  
5 individuals today.

6 Q. In our last discussion, you didn't have an  
7 exact number for me, so I did put it on the topics,  
8 whether you know the percent of Medicaid applications  
9 that are submitted to Arkansas DHS online versus in  
10 person; do you happen to know that?

11 A. I looked at a report that was from January of  
12 2020, and it was about 42 percent online.

13 Q. Do you happen to know whether, if someone is  
14 applying for Medicaid online, whether the application  
15 will go through if it's missing information?

16 A. It depends on if the missing information is  
17 necessary to determine eligibility.

18 Q. Do you happen to know whether the online  
19 application asks for immigration-related information?

20       A.     I know that it does, even though I can't give  
21       you the specific questions, because citizenship and  
22       status factor into Medicaid eligibility.  So I know  
23       there are questions, even though I don't know the  
24       specific questions, and I know that if it's not  
25       provided, the application would not be immediately

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1 denied, but if additional information is needed, the  
2 client would get a notice requesting additional  
3 information.

4 Q. Do you know if somebody who failed to put their  
5 immigration status information on the online application  
6 would get contacted and told, "Hey, we need this  
7 information from you before we can make an eligibility  
8 determination"?

9 A. They could if we needed additional information.

10 Q. Okay. And I guess you had mentioned you hadn't  
11 seen the paper application lately for Medicaid, would  
12 that answer be the same for the online application for  
13 Medicaid?

14 A. Yes. I know they're similar, but I have not  
15 seen it recently.

16 Q. Okay.

17 A. I don't have it in front of me.

18 Q. Would it also be fair to say that you don't  
19 know what specific information would be requested for  
20 immigration status, whether it's an identifying number  
21 or some other such thing?

22 A. Yeah, I know that they're asked about  
23 citizenship, if they're a citizen or not. And if  
24 they're not a citizen, to provide information about  
25 their status. I just can't give you the specific

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1 verbiage without looking at it.

2 Q. Okay. I think I pass the witness. No, I am  
3 definitely passing the witness.

4 MR. DISHER: Jeff, do you have any  
5 questions?

6 MR. ROBINS: I don't.

7 EXAMINATION

8 BY MR. DISHER:

9 Q. Okay. I just have one question, I believe,  
10 just so the record is clear, Ms. Franklin. DACA  
11 recipients are eligible for what type of services  
12 provided by your agency?

13 A. They are eligible for the Unborn Child category  
14 if they are pregnant and otherwise meet the eligibility  
15 requirements for that category. And they are eligible  
16 for emergency Medicaid if they meet criteria for that  
17 and it can be delivered, and it is not limited to any  
18 particular Medicaid category.

19 Q. Okay. Thank you. I pass the witness.

20 RE-EXAMINATION

21 BY MS. PERALES:

22 Q. I just have a follow up for that for emergency  
23 Medicaid. If I understand correctly, there could be  
24 various program categories for an emergency Medicaid; is  
25 that correct?

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 BROWNSVILLE DIVISION

4 STATE OF TEXAS, et al., \*  
5 Plaintiffs \*  
6 VS. \*  
7 UNITED STATES OF AMERICA, \*  
8 et al., \* Case No. 1:18-CV-68  
9 Defendants, \*  
10 and \*  
11 KARLA PEREZ, et al., \*  
12 Defendant-Intervenors \*

\*\*\*\*\*  
10 REPORTER'S CERTIFICATION  
11 DEPOSITION OF MARY FRANKLIN  
12 OCTOBER 5, 2020  
(Reported Remotely)

\*\*\*\*\*  
13 I, TRICIA FOX WILLIAMS, Certified Shorthand  
14 Reporter in and for the State of Texas, hereby certify  
15 to the following:

16 That the witness, MARY FRANKLIN, was duly sworn  
17 by the officer and that the transcript of the oral  
18 deposition is a true record of the testimony given by  
the witness;

19 That the deposition transcript was submitted on  
20 \_\_\_\_\_ to the witness or to the attorney for the  
witness for examination, signature and return to me by  
21 \_\_\_\_\_;

22 That the amount of time used by each party at  
the deposition is as follows:

23 MS. NINA PERALES - 01 HOURS:53 MINUTE(S)  
MR. TODD DISHER - 00 HOURS:01 MINUTE(S)

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4 That pursuant to information given to the  
5 deposition officer at the time said testimony was taken,  
6 the following includes counsel for all parties of  
7 record:

8 MR. TODD DISHER, Attorney for Plaintiffs

9 MS. NINA PERALES, Attorney for  
10 Defendant-Intervenors

11 MR. JEFFREY ROBINS, Attorney for Defendants

12 MR. DYLAN JACOBS, Attorney for State of Arkansas

13 MR. DAVID STERLING, Attorney for State of Arkansas

14 I further certify that I am neither counsel  
15 for, related to, nor employed by any of the parties or  
16 attorneys in the action in which this proceeding was  
17 taken, and further that I am not financially or  
18 otherwise interested in the outcome of the action.

19 Further certification requirements pursuant to  
20 Rule 203 of TRCP will be certified to after they have  
21 occurred.

22 Certified to by me this \_\_\_\_\_ of

23 \_\_\_\_\_, 2020.



24 TRICIA FOX WILLIAMS  
25 Certified Court Reporter

26 Certification Number: 8273  
27 Date of Expiration: 10/31/2022  
28 Firm Registration Number: 631  
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